

UNITED STATES DISTRICT COURT

for the

District of Oregon

United States of America
v.
Jose Rolando Miralda-Gutierrez

SEALED

Case No. 3:23-mj-00192

Defendant(s)

**CRIMINAL COMPLAINT
BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of November 2, 2023 in the county of Multnomah in the
 District of Oregon, the defendant(s) violated:

Code Section

21 U.S.C. § 841(a)(1)

Offense Description

Possession with Intent to Distribute Controlled Substances,

This criminal complaint is based on these facts:

See affidavit of SA Nicholas Myers, Federal Bureau of Investigation, which is attached and incorporated fully by reference.

☒ Continued on the attached sheet.

/s/ Nicholas Myers*Complainant's signature*Nicholas Myers, Special Agent FBI*Printed name and title*

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by
 telephone at 3:26 ~~a~~ p.m.

Date: November 2, 2023

City and state: Portland, Oregon



Jolie A. Russo

*Judge's signature*Honorable Jolie A. Russo, U.S. Magistrate Judge*Printed name and title*

3:23-mj-00192

DISTRICT OF OREGON, ss: **SEALED** AFFIDAVIT OF NICHOLAS MYERS

Affidavit in Support of a Criminal Complaint and Arrest Warrant

I, Nicholas Myers, being first duly sworn, do hereby depose and state as follows:

Introduction and Agent Background

1. I am a Special Agent with the Federal Bureau of Investigation (“FBI”) and have been since August 21, 2016. My current assignment is in the Seattle Division, Vancouver Resident Agency (“RA”), Safe Streets Task Force (“SSTF”). My training and experience includes participation in multiple drug investigations targeting large-scale drug trafficking organizations (“DTOs”) as the case agent or an investigating agent. During my tenure as an agent, I have been involved in multiple federal wiretap investigations and debriefed defendants and witnesses with personal knowledge regarding DTOs. Additionally, I have participated in many aspects of drug investigations, including conducting physical surveillance, confidential human source (“CHS”) management, providing grand jury testimony, preparing search warrant affidavits, executing search warrants, and making arrests.

2. I submit this affidavit in support of a criminal complaint and arrest warrant for Jose Rolando Miralda-Gutierrez, for violations of 21 U.S.C. § 841(a)(1), Possession of a Controlled Substance with Intent to Distribute; 21 U.S.C. § 841(b)(1)(B), Possession of a Controlled Substance with Intent to Distribute.

Applicable Law

3. Title 21 U.S.C. § 841(a)(1): It shall be unlawful for any person knowingly or intentionally to manufacture, distribute, dispense, or possess with intent to manufacture, distribute or dispense, a controlled substance.

///

4. Title 21 U.S.C. § 841(b)(1)(B): it shall be unlawful for any person to knowingly or intentionally- manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance.

Statement of Probable Cause

5. As part of an investigation into a fentanyl dealer operating in Portland, Oregon (later identified as Jose Miralda Gutierrez), Special Agents with the FBI identified a vehicle used by the target of the investigation, as well as his suspected residence. In furtherance of the investigation, FBI agents applied for warrants to search the vehicle, and the residence of Jose Miralda Gutierrez located at [REDACTED] SE Claybourne Street, Portland, Oregon (the “Claybourne Residence”).

6. On October 24, 2023, the Honorable Jeffrey Armistead signed a search warrant authorizing the search of the residence located at [REDACTED] SE Claybourne Street, Portland, Oregon, case number 23-mc-00911 – B. On November 2, 2023, FBI Special Agents executed the search warrant at [REDACTED] SE Claybourne Street, Portland, Oregon.

7. When agents arrived for the execution of the search warrant, agents saw that Jose Miralda Gutierrez was living at the residence and placed him in custody. During the course of the search, agents entered a bedroom believed to be Jose Miralda Gutierrez’s bedroom due to mail belonging to Miralda Gutierrez being inside the bedroom. Inside Miralda Gutierrez’s bedroom, agents found a box that contained 36,000 suspected fentanyl pills. Also inside Miralda Gutierrez’s bedroom, agents found shrink wrap baggies with suspected fentanyl residue consistent with fentanyl sales. Under Miralda Gutierrez’s mattress and inside his closet, agents recovered approximately \$10,000-\$15,000 in cash.

///

8. Special Agent Grant Taylor transported the suspected fentanyl to the FBI office where SA Nicholas Myers conducted a field test of one of the pills located from the box that was found in Miralda Gutierrez's bedroom of the Claybourne Residence. The field test resulted in a presumptive positive test for fentanyl as witnessed by Special Agent Grant Taylor.

9. FBI agents interviewed Jose Miralda Gutierrez, and post Miranda, Mr. Miralda Gutierrez admitted that he had previously sold fentanyl pills for cash in 2023, but stated that he stopped selling fentanyl pills approximately 3 months prior to the search in November 2023.

10. I am very familiar with how fentanyl dealers operate and I know that fentanyl traffickers are increasingly selling both bulk fentanyl powder, as well as counterfeit M/30 prescription pills that are manufactured with fentanyl, a Schedule II controlled substance. I know that fentanyl powder is typically a white to off-white powder. I also know that the counterfeit pills being sold are designed to replicate real 30 mg Oxycodone pills, which are round, often blue in color, and stamped with an "M" and "30" on them and weigh approximately 1/10th of a gram. I have seen and been involved in the seizure of thousands of these counterfeit M/30 pills and both field tests and forensic laboratory analysis conducted on samples of these pills have confirmed the presence of fentanyl within them. I know a typical user of fentanyl will either buy powdered fentanyl or counterfeit M/30 pills that they will then burn on a piece of aluminum foil and inhale the fumes. Sometimes a user will simply ingest the pills or inhale the powdered fentanyl as is. Since different weighs of powdered fentanyl sell for different amounts, I know that drug dealers selling fentanyl powder will often possess a scale to weigh the amount of powder fentanyl they are selling. I also know drug dealers selling powdered fentanyl, which they possess in bulk/larger amounts, will often possess additional packaging materials to repackage the drugs they are selling to their customer. These M/30 pills can sell on the street to a user for as

little as .25 cents a pill. Depending on their level of addiction, I know that a typical fentanyl user buying pills may buy and use between one (1) and 20 pills a day, and sometimes more. I know that a user of powdered fentanyl will typically buy it in quantities of less than a gram and use it in quantities of less than 1/10 of a gram. I also know that dealers of pills will often buy pills in bulk quantities and then repackage the pills into smaller quantities. I know that dealers of powdered fentanyl will often buy fentanyl in larger quantities and then break off and sell it in smaller quantities of a gram or less. I know that a person possessing 36,000 fentanyl pills (counterfeit M/30 pills manufactured with fentanyl) does not possess the powder for personal use but rather such a quantity clearly indicates that it is possessed for purposes of further distribution.

Conclusion

11. Based on the foregoing, I have probable cause to believe, and I do believe, that Jose Rolando Miralda-Gutierrez committed violations of 21 U.S.C. § 841(a)(1), Possession of a Controlled Substance with Intent to Distribute; 21 U.S.C. § 841(b)(1)(B) and Possession of a Controlled Substance with Intent to Distribute. I therefore request that the Court issue a criminal complaint and arrest warrant for Jose Rolando Miralda-Gutierrez.

12. Prior to being submitted to the Court, this affidavit, the accompanying complaint and the arrest warrant were all reviewed by Assistant United States Attorney (“AUSA”) Nicole Bockelman, and AUSA Bockelman advised me that in her opinion the affidavit and complaint are legally and factually sufficient to establish probable cause to support the issuance of the requested criminal complaint and arrest warrant.

///

///

///

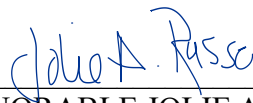
Request for Sealing

13. It is respectfully requested that the Court issue an order sealing, until further order of the Court, all papers submitted in support of the requested criminal complaint and arrest warrant. I believe that sealing these documents is necessary because the information to be seized is relevant to an ongoing investigation, and any disclosure of the information at this time may cause destruction or tampering with evidence. Premature disclosure of the affidavit, the criminal complaint, and the arrest warrant may adversely affect the integrity of the investigation.

/s/ Sworn to by Telephone
In accordance with Fed R. Crim. P. 4.1

Nicholas Myers
Special Agent, FBI

Sworn to by telephone at 3:26 ~~a.m.~~/p.m. this 2 day of November 2023 in accordance with requirements of Fed. R. Crim. P. 4.1.



HONORABLE JOLIE A. RUSSO
United States Magistrate Judge